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Before the
Federal Communications Commission
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

TO: The Commission

**PETITION FOR PARTIAL RECONSIDERATION AND CLARIFICATION
OF THE CHRONICLE PUBLISHING COMPANY**

The Chronicle Publishing Company ("Chronicle"), licensee of station KRON-TV (NTSC Channel 4, San Francisco, California), hereby petitions the Commission to reconsider its decisions in the above-referenced proceeding. While Chronicle does not here challenge the assignment of DTV Channel 57 to KRON-TV in San Francisco, Chronicle petitions the Commission to (i) provide for future consideration of the competitive inequities which may result from this assignment as a part of its periodic reviews during the transition period; (ii) definitively determine that Channels 2 through 6 will be retained for the final core DTV spectrum, providing KRON-TV the option to return to Channel 4 at the end of the transition period; (iii) provide that if KRON-TV or other stations with out-of-core assignments are required to relocate into the core DTV spectrum after the transition, licensees of these stations will be compensated for the costs

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of the move; (iv) provide interference protection for KRON-TV's DTV Channel 57 out to its current NTSC Grade B contour both during and after the DTV transition; and (v) exclude the time period from midnight to 6 a.m. from the parity of operation requirement for NTSC and DTV operations.

The Commission faced a monumental task in developing new DTV channel assignments for more than 1600 full power NTSC stations. Chronicle recognizes that the magnitude of this task coupled with the limited spectrum available made it inevitable that there would be compromises and imperfect solutions. Nonetheless, Chronicle respectfully requests that the Commission clarify and reconsider its decisions in *Fifth Report and Order* and *Sixth Report and Order* to address the following concerns.

(1) The engineering analyses that Chronicle has conducted thus far indicate that the assignment of DTV Channel 57 to KRON-TV in San Francisco likely will place KRON-TV at a competitive disadvantage with respect to other currently like-situated stations within the market. Chronicle is concerned that in later stages of the transition, KRON-TV's loss of coverage in areas at the fringes of its current NTSC Grade B contour, including some very well populated areas, will cause it significant injury. Based on our engineering review, we believe that other stations in the market will not be harmed to the same extent as KRON-TV. While Chronicle understands that the Commission cannot assure absolute competitive equity between all stations within a market, we hope that the Commission will be open to considering the competitive effects of its DTV assignments in the future. Therefore, Chronicle petitions the Commission to clarify that the periodic reviews to be conducted by the Commission every two years

throughout the transition^{1/} will include an examination and consideration of competitive inequities resulting from the DTV channel assignments.

(2) KRON-TV currently operates on NTSC Channel 4, and would like the opportunity to return to this channel after the DTV transition. If the Commission decides to exclude Channels 2 through 6 from the final DTV core spectrum, however, KRON-TV will lose this opportunity. Moreover, because KRON-TV has been assigned an out-of-core DTV channel, it finds itself in the particularly unenviable position of facing a possible "double move," requiring it to establish DTV operations on a yet-to-be-identified third channel. For these reasons, Chronicle urges the Commission to determine definitively that Channels 2 through 6 will be retained in the core DTV spectrum. Chronicle understands that the Association for Maximum Service Television, Inc., along with members of the Broadcasters Caucus and other broadcasters, today is filing a petition for reconsideration in the instant proceeding (the "MSTV Petition") urging the Commission affirmatively to assist in the effective utilization of Channels 2 through 6 for DTV. Chronicle strongly supports this position, and is a signatory to that petition.

(3) For similar reasons, Chronicle requests that the Commission commit to ensure that KRON-TV and other stations with out-of-core assignments receive compensation for the costs of post-transition moves into the core. Chronicle understands

^{1/} This procedure is established in paragraph 116 of the *Fifth Report and Order* in the instant proceeding.

that the MSTV Petition requests that the Commission provide such compensation, and Chronicle strongly supports this request.^{2/}

(4) KRON-TV is subject to the 1000 kW power cap for its DTV operations. For reasons that will be more fully set forth in the MSTV Petition, KRON-TV will have DTV service which does not replicate its NTSC Grade B contour. The Commission's conclusion in *Appendix B* to the *Sixth Report and Order* that KRON-TV will have 93.5% replication fails to reflect the fact that the current rules established in the *Fifth Report and Order* protect KRON-TV's Channel 57 DTV service area only out to the DTV coverage contour which is inside of its present NTSC Grade B contour. Because of this discrepancy, Chronicle strongly supports the position set forth in the MSTV Petition requesting that the rules be changed to provide interference protection out to the NTSC Grade B contour for DTV stations subject to the 1000 kW power cap.

(5) As the industry and the Commission move forward to implement the DTV transition, utilizing new and still developing digital technology, there will inevitably be challenges and difficulties. These difficulties may be particularly acute for DTV stations operating on channels adjacent to nearby NTSC and DTV stations, for which the interference issues are not yet fully understood. For example, KRON-TV was assigned DTV Channel 57 in San Francisco, while KTVU-TV was assigned DTV

^{2/} Of course, in assigning channels after the transition, the Commission should give priority to licensees of existing stations required to move from out-of-core channels, as opposed to new DTV stations that become operational on out-of-core DTV channels during the transition. Indeed, in permitting new DTV operations during the transition, the Commission should be generally vigilant in preserving spectrum to accommodate the move of NTSC stations that were assigned out-of-core DTV channels back into the core spectrum.

Channel 56.^{3/} In order to accommodate the difficulties inherent to the transition to digital technology, Chronicle urges the Commission to make exception to the requirement set forth in paragraph 28 of the *Fifth Report and Order* which provides that broadcasters "must provide a free digital video programming service the resolution of which is comparable to or better than that of today's service and *aired during the same time periods that their analog channel is broadcasting.*" (Emphasis added) Specifically, Chronicle requests that the Commission exempt from this requirement the hours from midnight until 6 a.m., providing the licensee with a period of time during which to conduct maintenance or resolve any technical or other unanticipated problems arising from the use of this new technology, particularly in the UHF band. While such "down time" may not be necessary for long-established NTSC operations, it will be essential to the success of new digital technology.

^{3/} Although KTVU-TV is licensed to Oakland, its NTSC and DTV operations are co-sited with KRON-TV's operations at Sutro Tower in San Francisco.

For the reasons set forth above, the Commission should grant the relief requested herein in order to protect the public interest during and after the DTV transition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer A. Johnson", written over a horizontal line.

Kurt A. Wimmer
Jennifer A. Johnson

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